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**U.S. DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD**

GOVERNMENT OF THE TERRITORY
OF GUAM,

Complainant,

Vs.

STB Docket No. WCC-101
(Phase II)

AMERICAN PRESIDENT LINES, LTD.,
MATSON NAVIGATION COMPANY,
And SL SERVICE, INC., f/k/a SEA-
LAND SERVICE, INC.,

Defendants.

INTERVENOR CARIBBEAN SHIPPERS ASSOCIATION'S
SUMMARY OF COMMENTS FOR ORAL ARGUMENT

ENTERED
Office of Proceedings
FEB 2 - 2005
Part of
Public Record

Submitted By:

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CARIBBEAN SHIPPERS ASSOCIATION

Dated: 2 February 2005

Introduction

COMES NOW, Intervenor Caribbean Shippers Association, Inc., by and through its Counsel and submits this Summary of Intervenor's Comments for Oral Argument on February 10, 2005. The Board, by Order dated October 19, 2004, directed that all parties submit, no less than one week prior to oral argument, a written summary of the specific points which they intended to discuss at oral argument. Intervenor has been reserved a period of five (5) minutes at oral argument.

Name and Title of Speaker

Rick A. Rude, Secretary and General Counsel of the Caribbean Shippers Association will appear on behalf of the Association.

SUMMARY

The Caribbean Shippers Association petitioned to intervene in this proceeding based upon the belief that any methodology adopted by the Board to measure the reasonableness of carrier rates would be consistently applied in all domestic offshore trades.

This proceeding has been pending since September 1998. The complaint involves the issue of the reasonableness of **ALL OF DEFENDANTS' RATES** in the United States – Guam trade. The proceeding challenges the reasonableness of defendants' overall rate structures and is represented as an "**AGGREGATE RATES**" proceeding. This Oral Argument is addressed to "Phase II" which involves the establishment of the methodology to be used to evaluate the defendants' rate structures. The Association noted that the Methodology to be adopted not address individual rate issues.

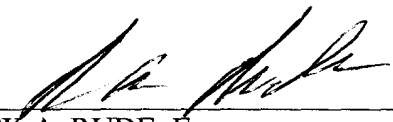
The Comments of the Association¹ reflected that the factual circumstances surrounding the defendants and their operations had changed substantially. These changed facts have impacted the meaningfulness of this proceeding. These changed circumstances further impacted "which" type of rate analysis (i.e. methodology) could be employed from a 'practical' point of view. These changed facts are stated as follows:

- **Defendant SL Service ceased operations in December 1999 and therefore any future rate prescription to that defendant is not an effective remedy.**
- **Defendant Matson Navigation Company had entered into a contractual arrangement with a foreign owned carrier that precluded Matson from conducting efficient operations necessary to any stand alone cost test.**
- **A company identified as CSX Lines, LLC began operations in the Guam Trade in January 2000 but was not a named defendant in this proceeding.**
- **Defendants publicly acknowledged the existence of a reciprocal service arrangement whereby the defendants had been transporting each other's cargoes with a resultant diminution of vessel capacity and competition.**

¹ The Association filed Opening Comments on April 9, 2002 and Reply Comments on June 17, 2002. The Comments contained specific fact points regarding the carrier defendants and the Guam Trade. See, CSA Opening Comments at pages 2-4 and identified as the "History of the Trade in Issue". It was also noted that a review of and comparison of freight all kinds rates in the Guam trade versus the foreign trade, both types of cargo which moved on the same vessel, reflected that the domestic shipping rates were 300% higher than the international freight all kinds rates.

- **This reciprocal service arrangement resulted in defendants becoming freight forwarders rather than vessel operating carriers thereby rendering their rates not subject to regulation by the Board.**

The Association indicated that the rate analysis established by the Federal Maritime Commission in September 1995 was the "current" methodology and was in fact the ONLY methodology being employed. The I.C.C. had regulated these defendants on the basis of joint rates—but that no 'rate case' was prosecuted at the I.C.C. It was also pointed out that Stand Alone Cost models require efficient carriage, including the ability to handle additional and/or 'back-haul' freight. The only efficient means to serve the Guam Trade is on a "Pass-By" basis. The Asia-U.S. international trades are now "confidential contract" trades. As such, shippers cannot identify the "demand" side of an SAC model. Further, the carriers have intentionally limited their operations to Guam and these contractual arrangements now extend to the question of the **IDENTITY** of the vessel operator actually providing the service. The Matson/American President Lines arrangement, as example, is open to question as to "who" is the real carrier and operator of the ship? Any decision in Phase III may very well be irrelevant under these circumstances.



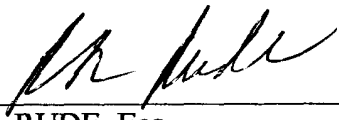
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Certificate of Service

I hereby certify that a copy of this document has been served, by first class mail,
postage prepaid, upon the below listed parties of record in this proceeding.

Dated this 2nd day of February 2005 at Falls Church, Virginia 22046.



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